

FILED

JAN 16 2004



CLERK

UNITED STATES DISTRICT COURT
 DISTRICT OF SOUTH DAKOTA
 WESTERN DIVISION

Alice Torres,)	CIV 01-5056
)	
)	
Plaintiff,)	UPDATED JURY
)	TRIAL EXHIBIT LIST
vs.)	AS OF 1/16/04 (12:40 PM)
Travelers Insurance Company, Insurance)	
Company of the State of Pennsylvania, and)	
Constitution State Services f/k/a)	
Constitution State Service Company,)	
)	
Defendants.)	

NO.	WITNESS	DESCRIPTION	OFF.	RULING	FILED
1		Alice Torres Performance Evaluation (3/27/97)	P	Received	1/13/04
2		Alice Torres Performance Evaluation (11/19/98)	P	Received	1/13/04
3		Community Health Records	P	Received	1/13/04
4		Dr. Simonson Medical Records	P	Received	1/13/04
5		Employer's First Report of Injury	P	Received	1/13/04
6		Alice Torres Recorded Statement with Carl Young and Index Report	P	Received	1/13/04
7		Dr. Anderson Medical Records	P	Received	1/13/04
8		CSS Claim Notes	P	Received	1/13/04
9		CSS Claim Notes	P	Received	1/13/04
10		Alice Torres handwritten resignation letter dated 5/3/99	P	Received	1/13/04
11		Black Hills Surgery Note to Alice Torres 6/22/99	P	Received	1/13/04
12		Thomas Gillis letter 7/8/99	P	Received	1/13/04

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NO.	WITNESS	DESCRIPTION	OFF.	RULING	FILED
13		Rita Parkins letter to Black Hills Surgery Center 9/3/99	P	Received	1/13/04
14		Alice Torres Retainer Agreement with Jim Leach	P	Received	1/13/04
15		Jim Leach letter to Carl Young 10/18/99	P	Received	1/13/04
16		Petition for Hearing 10/18/99	P	Received	1/13/04
17		Answer	P	Received	1/13/04
18		Employer's Interrogatories to Claimant	P	Received	1/13/04
19		Jim Leach letter to Hickey 10/8/99. No genuine dispute	P	Received	1/13/04
20		Employer/Insuror Proposed Scheduling Order 11/12/99	P	Received	1/13/04
21		Scheduling Order 11/17/99 - prehearing set 4/17/00	P	Received	1/13/04
22					
23		Affidavit of Dr. Dale Anderson and Report of Dr. Dale Anderson	P	Received	1/13/04
24		Hickey letter to Parkins	P	Received	1/13/04
25		Claimant's Answers to Employer/Insurer Interrogatories	P	Received	1/13/04
26		Employer and Insurer's Designation of Expert Witnesses	P	Received	1/13/04
27		11/8/99 Leach letter to Hickey. Enclosed are Interrogatories/RFP	P	Received	1/13/04
28					
29		4/19/00 Notice of Hearing	P	Received	1/13/04
30					
31		5/18/00 Dr. John Lassegard deposition	P	Received	1/13/04
32		5/24/00 Dr. Curt Stone deposition	P	Received	1/13/04

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NO.	WITNESS	DESCRIPTION	OFF.	RULING	FILED
33					
34		7/28/00 Hearing Brief of Beverly Enterprises	P	Received	1/13/04
35					
36		8/22/00 South Dakota Department of Labor decision	P	Received	1/13/04
37					
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42					
43		HICFA form re: Alice Torres and Dr. Anderson's billing			
44		1/23/01 Leach letter to Hickey re: fees and costs, with supporting documents	P	Received	1/13/04
45		Jim Leach's Statement of Costs dated 9/21/00 and Jim Leach's Itemized Time Statement dated 12/18/00	P	Received	1/13/04
46		Third Settlement Breakdown dated 7/20/01, re: \$3,900	P	Received	1/13/04
47		Leach letter to Fullenkamp re: fees, dated 7/23/01	P	Received	1/13/04
48		Fullenkamp letter to Leach dated 7/24/01 re: attorney's fees	P	Received	1/13/04
49	G. Fye	Hickey's fees breakdown dated 5/10/01	P	Received	1/14/04
50		Leach letter to Mike Hickey dated 5/14/01 re: Hickey's billings	P	Received	1/13/04
51	A. Torres	Worker's Compensation Hearing Transcript 6/1/00	P	Received	1/14/04

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NO.	WITNESS	DESCRIPTION	OFF.	RULING	FILED
52		Exhibit 1 to Hearing Transcript - 1st Report of Injury	P	Received	1/13/04
53		Exhibit 2 to Hearing Transcript - Health Insurance Claim forms and bills	P	Received	1/13/04
54		Exhibit 3 to Hearing Transcript - Anesthesiology Bill	P	Received	1/13/04
55		Exhibit 4 to Hearing Transcript - Surgery Center Bill	P	Received	1/13/04
56		Exhibit 5 to Hearing Transcript - EOB payment by Great West for \$1,185.75	P	Received	1/13/04
57		Exhibit 6 to Hearing Transcript - Denial Letter	P	Received	1/13/04
58		Exhibit 7 to Hearing Transcript - Supervisor's Accident Investigation Report	P	Received	1/13/04
59		Exhibit 8 to Hearing Transcript - Claimant's First Request for Documents	P	Received	1/13/04
60		Exhibit 9 to Hearing Transcript - Claimant's First Interrogatories	P	Received	1/13/04
61		Summary of Medical Bills			
62		Excerpts from Wiggins 2000 Evaluation	P	Received	1/13/04
63		Excerpts from Wiggins 2001 Evaluation	P	Received	1/13/04
64		Excerpts from Hogue 2000 Evaluation	P	Received	1/13/04
65		Excerpts from Hogue 2001 Evaluation	P	Received	1/13/04
66		Excerpts from Carl Young's Personnel File	P	Received	1/13/04
67	V Armentano deposition	Donald Florek 1999 Evaluation	P	Received	1/14/04
68	V Armentano deposition	Donald Florek 2000 Evaluation	P	Received	1/14/04
69	V Armentano deposition	Donald Florek 2001 Evaluation	P	Received	1/14/04

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NO.	WITNESS	DESCRIPTION	OFF.	RULING	FILED
70	V Armentano deposition	Award letter to Donald Florek dated 1/26/01	P	Received	1/14/04
71	C. Young	Excerpts from Worker's Compensation Best Practices	D	Received	1/15/04
72	G. Fye	CSS Web Page	P P	Refused Received	1/14/04 1/15/04
73	G. Fye	Constitution State Services: "Our Message"	P P	Refused Received	1/14/04 1/15/04
74		South Dakota Department of Labor Form: <u>Request for Extension of Time to Investigate</u> Workers' Compensation Claim			
75	R Stankevich	Defendants First Supplement to Defendants' Answers to Plaintiff's First Set of Interrogatories (2 pages). AND Beverly list of comp claims for carpal tunnel, and list of claims closed without payment	P	Received	1/16/04
76		Traveler's Guide to Policies, Programs and Practices - cover page and excerpt			
77	V Armentano deposition	Defendant Travelers Insurance Company's Responses to Plaintiff's Fourth Set of Requests for Production of Documents, Responses Nos. 9, 10, 11, 13 (2 pages)	P	Refused	1/14/04
78		Defendant's Responses Provided in the Master Discovery List, Requests No. 37 and 49 (2 pages)			
79	V Armentano deposition	Defendant Travelers Insurance Company's Supplemental Responses to Plaintiff's Fourth Set of Request for Production of Documents signed by Pat Meyers 10/24/03 and attachments (1001691 to 1001816 - Base pay and Incentive Compensation Program)	P P	Not Received Received	1/13/04 1/14/04
80					
81					

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NO.	WITNESS	DESCRIPTION	OFF.	RULING	FILED
82					
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93		Travelers Annual Statement Balance Sheet Info			
94					
95		Best's Key Rating Guide - Property Casualty Edition - Annual Statement Data			
96					
97					
98					
99		Beverly Enterprises reported claims in South Dakota for 1998-2000			
100					
101		EOB re: payment to Alice Torres and Jim Leach in the amount of \$3,900	P	Received	1/13/04
102		Check to Alice Torres and Jim Leach in the amount of \$3,900	P	Received	1/13/04
103		2001 Work comp score card for Beverly			

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NO.	WITNESS	DESCRIPTION	OFF.	RULING	FILED
104					
105		Claim Service Agreement between AIG and CSS	P	Received	1/13/04
106		Policy Declaration Sheet	P	Received	1/13/04
107		Addendum for MM deductible	P	Received	1/13/04
108		Defendant's Answer to Interrogatory #5, filed 2/7/03. Percentage of claims by amount			
109		<u>Cozine v. Midwest Coast Transport</u> , 454 NW2d 548, 555 (SD 1990). Employer provides medical care			
110		<u>Miller v. Lake Area Hospital</u> , 551 NW2d 817, 820 (SD 1996). Notice case			
111		<u>Loewen v. Hyman Freightways, Inc.</u> , 557 NW2d 764, 766 (SD 1997). Notice case			
112		<u>Vaughn v. John Morrell</u> , 2000 SD 31, ¶ 14, 606 NW2d 919. Gradual/progressive injury			
113		<u>Hanson v. Penrod Const. Co.</u> , 425 NW2d 396 (SD 1988). If Dr. says treatment needed, it is for the employer to prove otherwise			
114		<u>Brown v. Douglas School District</u> , 650 NW2d 264 (SD 2002). "A major contributing cause."			
115		<u>Meyers v. Meyers Oil Co.</u> , 216 NW2d 820 (SD 1974). Insurance company is not beneficiary of private insurance			
116	C. Young	SDCL 62-7-1. IME	P	Refused	1/15/04
117		SDCL 58-33-67. Unfair claim practices			
117A		SDCL 58-20-6. Prompt payment required			
117B		SDCL 58-3-7.4. Claim files subject to examination			
118		SDCL 62-6-2. Reporting statute			
119		SDCL 62-6-3. Investigate within 20 days			

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NO.	WITNESS	DESCRIPTION	OFF.	RULING	FILED
120		AM Best Report regarding the Insurance Company for the State of Pennsylvania			
121	A. Torres	Explanation of Benefits from Great West	P	Received	1/14/04
122		Document entitled: Torres Medical Bills - 1 page (from Mike Hickey's file)			
123		Alice Torres Medical Records Chronology - 5 pages (from Mike Hickey's file)			
124		Document entitled: Timeline - 1 page (from Mike Hickey's file)			
125		Letter to Rita Parkins from Mike Hickey dated 11/9/99 - 1 page (from Mike Hickey's file)			
126	M. Hickey	Email from Beth Ann Halvorson to Mike Hickey dated 12/7/99 - 1 page (from Mike Hickey's file)	P	Received	1/15/04
127		Email from Beth Ann Halvorson to Mike Hickey dated 2/16/00 - 1 page (from Mike Hickey's file)			
128		Note from Beth Ann to Mike Hickey re: the Torres file - 1 page (from Mike Hickey's file)			
129	M. Hickey	Document entitled: Alice Torres Pre-Hearing Conference Information - 1 page (from Mike Hickey's file)	P	Received	1/15/04
130	M. Hickey	Draft of Employer/Insurer's Answers to Claimant's First Interrogatories - 4 pages (from Mike Hickey's file)	P	Received	1/15/04
131	M. Hickey	Document entitled: Interrogatory #3: Interview/Statement - 1 page (from Mike Hickey's file)	P	Received	1/15/04
132		Draft of Employer/Insurer's Responses to Claimant's First Request for Production - 3 pages (from Mike Hickey's file)			
133	M. Hickey	Memo from Beth Ann to Mike Hickey, dated 2/21/01 - 1 page (from Mike Hickey's file)	P	Received	1/15/04

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NO.	WITNESS	DESCRIPTION	OFF.	RULING	FILED
201	A. Torres	Plaintiff's Responses to Employer/Insurer's Interrogatories	D	Received	1/14/04
202	J. Leach	Hickey 12/20/00 letter to Leach	D	Received	1/13/04
203		Hickey 12/20/00 letter to DOL			
204		Leach 1/02/01 letter to Hickey			
205		Hickey 1/08/01 letter to DOL			
206		Leach 5/15/01 letter to Hickey			
207		Leach 5/15/01 letter to DOL			
208		Notice of Depositions, 5/15/01, in worker's compensation proceeding (Beverly Enterprises, Marty Davis, Dan Ashmore)			
209		Subpoena Duces Tecum, 5/15/01, in worker's compensation proceeding, to Beverly Enterprises			
210		Leach 3/07/01 letter to Hickey			
211		Hickey 3/02/01 letter to DOL			
212		Second Supplemental Response to Request for Production, 3/02/01			
213		Employer and Insurer's Answers to Claimant's Second Interrogatories, 3/02/01			
214		Hickey 3/02/01 letter to Leach			
215		Leach 3/01/01 letter to Hickey			
216	J. Leach	Hickey 2/13/01 letter to Leach	D	Received	1/13/04
217		Hickey 1/18/01 letter to Leach			
218		DOL letter to counsel			
219		Order			
220		Hickey 5/18/01 letter to Davis			

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